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PL

Sectt. II-27—100,006—21-5-53.

Education (1954) Department.

M SERIES.

G.O. No. 1606 Edn

Dated 22-6-48

[Despatch Abstract.]

The TAX - Education - Levy in Municipal areas.
Instructions issued.

GOVERNMENT OF MADRAS
Education and Public Health Department
G.O.Ms.No.1606, Education, Dated 22nd June 1948.

Abstract.

Tax - Education - Levy in Municipal areas - Instructions issued.

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READ:-

From the Examiner of Local Fund Accounts, L.F.405, dated 15-4-1948.

ORDER:

The Government observe that certain municipal councils are levying education tax on buildings alone, while the tax is not levied on other classes of properties such as vacant sites and agricultural lands. The Executive Authorities of municipal councils are informed that no class of property in municipal areas is exempt from the levy of education tax under the Madras Elementary Education Act,1920, as amended. They are therefore, requested to send to Government before 20-8-48, proposals for the levy of the education tax on vacant and agricultural lands within their respective jurisdiction if no tax is levied on them at present. The additional income likely to be derived by such levy in each case should also be furnished.

2. It has been brought to the notice of Government that there is no uniformity in the procedure adopted by municipal councils in the levy of education tax in municipalities. For instance some councils are letying the tax on the annual value of properties, while others are levying it at a certain percentage of the property tax. The former practice is not in conformity with the provisions of section 34 (1) of the Madras Elementary Education Act, 1920 as amended, the Government consider that the rate of Education tax should be fixed in all cases at a certain percentage of the property tax as contemplated in section 34 (1) of the Madras Elementary Education Act.

3. The Executive Authorities are requested to send through the Examiner of Local Fund Accounts not later than 15-8-1948 proposals for fixing the rate of education tax at a certain percentage of the property tax if the tax is otherwise levied by them on any class of property within their jurisdiction. The financial implications of the proposals should also be explained. The Examiner is requested to consolidate the proposals and forward them to Government not later than 15-9-48.

(By Order of His Excellency the Governor)

M.V.Subramaniam,
Secretary to Government.

To
All Executive Authorities of Municipal Councils through Chairman, Municipal Councils.
The Examiner of Local Fund Accounts.
" Inspector of Municipal Councils and Local Boards.
" Director of Public Instruction.

/True copy/Forwarded/By Order

Sd. x x
Superintendent.

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p.t.o.

Copy of letter No.E.F. Mex 405/dated 15-4-1948 from the Examiner of Local Fund Accounts, Mount Road, Madras-2 to the Secretary to Government, Education and Public Health Department, Madras.

Sub: Levy of Education Tax - Kumbakonam Municipal Council - Vacant sites and lands exempted - Irregularity brought to notice.

Consequent on the introduction of Compulsory Education in the municipality and levy of Education Tax with reference to G.O.No.855, Law (Education) dated 21st July 1922, the Kumbakonam municipal council resolved to levy education tax at 2½% of the annual rental of properties. But the tax was actually levied on buildings only and all lands were exempted. The defect was pointed out in this Department letter No.19-A/7828, dated 24th March, 1923 whereupon the sanction of Government was obtained exempting lands and vacant sites from liability to assessment of Education Tax - Vide G.O.No.133. Law (Education) dated 28th January 1925, (copy enclosed)

In this connection, a reference is invited to the Education, and Public Health Department U.O.Note 21530-C1/46-3 dated 21st November 1946 indicating the latest legal opinion in the matter in accordance with which the exemption of any class of property from education tax will not be in order.

Th[illegible] [illegible]il is levying property tax on agricultural lands on the basis of annual value and on vacant sites on the basis of capital value. In-as-much as the levy of education tax was resolved to be levied at a percentag of the annual rental of properties, the tax should have been levied on agricultural lands which are assessed on annual value unlike the vacant sites which are assessed on capital value. But the municipal council has not been levying the education tax on the agricultural lands relying on G.O.No. 133 Law (Education) dated 28th January 1925.

It is therefore submitted for consideration of Government whether the orders in the Government order of 1925 IBID may not be modified and the municipal council advised to levy education tax on lands which are assessed on the basis of annual value.

Sd. B.B.Shanker Rao,
Examiner of Local Fund Accounts.

E.& P.H. (C1) Deptt.

G.Os. Nos. 855, Law (Edn.) dated 21-7-22 and 133, Education dated 28-1-25 required for the disposal of this case have been called for from M.R.O.,Chittoor, but the G.Os. have not yet been received. A reminder has also been sent to-day. This may lie over till 18-5-48.

Sd. x x
17-5-48.

C.No.28201/48. Education & PublHealth (Cl) Dept.

Tax- Education - Mcl.cl., Kumbakonam - Levy on agriculture and vacant lands - Exemption from.

From the Examr. of L.F.Accts., No.405, dt. 15-4-1948.

The reference of the Examiner of Local Fund Accounts at pages 1-2 c.f. may be perused. With reference to this, the following points arise for consideration:--

(1) Whether Govt. have power to exempt the agricultural and vacant lands in the Kumbakonam Mpty. from the levy of education tax, and

(2) whether the orders issued in G.O.No.133, Law (Education) dated 28-1-25 required modification.

2. ITEM (1) ABOVE: The Madras Elementary Education Act, 1920, does not contain any provision empowering the Govt. to exempt any class of property, from the levy of education tax. The Act gives power only to fix the rate i.e. the percentage at which education tax shall be levied, as a surcharge on property tax. Reference is, in this connection, solicited to the remarks of Legal at page 20 n.f. of G.O. No.513, Education, dated 23-3-42. Any order issued by the Govt. exempting a class of property from the levy of education tax will not, therefore, be in accordance with the provisions of the Act.

3. ITEM (2) ABOVE: As stated above, the Ele.Edn. Act, provides for the levy of education tax, by a local authority, at a percentage of the property tax already levied in its area. But in actual practice, this provision is not strictly adhered to. In almost all cases, education tax is now levied at a percentage of the annual value (i.e. annual rental value) of properties. The practice has resulted in certain complications like the one in question. There seems to be no legal objection to continue this practice, but it seems desirable to issue orders in such cases at least in future, so as to be in conformity with the provisions of section 34 of the E.E.Act and to avoid complications. Legal may be requested to advise whether the view expressed at 'A' on page 1 ante is correct.

4. As regards the levy of education tax on agricultural and vacant lands in the Kumbakonam Mpty., it is submitted that the view expressed by the Examiner of L.F. Accts. at 'M' on page 2 c.f. is correct. The orders issued in G.O.No.133, Law (Education) dt. 28-1-25 may be cancelled and fresh sanction may be accorded to levy of education tax on properties other than vacant lands. Attention is, in this connection, invited to paragraphs 4 and 5 of the notes at pages 9 and 10 of G.O.No.174, Edn., dated 30-1-47. If the view expressed at 'A' on page 1 ante is correct, there seems to be no need to advise the Mcl.Cl., Kumbakonam, to levy education tax, on vacant lands also. Otherwise, this council and many others which do not levy education tax, at present, on vacant lands will have to be advised to move in the matter.

5. L.A and Legal may see for remarks.

Sd. x x
27-5-48.

Sd. x x
29-5-48.

E.&.P.H.U.O.No.28201-Cl/48-1,
dt. 9-5-1948.

p.t.o.

L.A. Dept.(A).

It is desirable that the rate of Edn. tax is fixed at a certain percentage of the property tax levied instead of at a percentage of the annual value of properties. This will be in conformity with the provisions of section 34 of the Madras Elementary Education Act. 1920.

Sd: x x/3-6-48. Sd. x x/3-6-48.
Secy

L.A.U.O.No.22024/48-1A, dt. 3-6-48.

Legal Dept.

'A' ON P.1 ANTE: Section 34 (1) of the Elementary Education Act contemplates the levy of education tax at such percentages of the taxation levied in the municipality under the law governing the same under all or any of the heads specified therein, namely, property tax, tax on companies and profession tax. If Education tax is to be levied at a percentage of the property tax, then the levy of education tax on the basis of annual value of the property is not in order for property tax may be levied on the annual value in certain cases, e.g., buildings, and on the capital value in certain cases, e.g., vacant lands. The existing practice of levying education tax at a percen of annual value does not therefore appear to be correct.

'B' ON P.2 ANTE: As there is no provision for the grant of exemption from the education tax, it follows from the position stated above, that education tax should also be levied on vacant lands.

Sd. x x
11-6-48

Sd x x x
11-6-48.

Legal U.O.No.6919/48-1.
dt. 11-6-48.